

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Kuempel

H.B. No. 1818

A BILL TO BE ENTITLED

AN ACT

relating to the disposition of confiscated game, animal parts, and animal products.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 12.109(b) and (d), Parks and Wildlife Code, are amended to read as follows:

(b) The confiscated aquatic products shall be sold to the highest of three bidders. The proceeds of the sale shall be deposited in the state treasury to the credit of the appropriate suspense fund [~~account No. 900~~] pending the outcome of the action taken against the person charged with illegal possession. The officer shall give to the person a receipt for all aquatic products seized upon the sale of the aquatic products. If bids cannot be obtained, the department, if practicable, shall donate the aquatic products to a charitable institution, hospital, or other person.

(d) If [Unless] the person is found guilty, pleads guilty or nolo contendere, [or] is placed on deferred adjudication, or fails to appear in accordance with a notice described by Section 12.106 or another law requiring that, as a condition of release, the defendant subsequently appear before a court to answer for the offense, all the proceeds shall be transferred to the credit of the game, fish, and water safety account. If the person is acquitted by the trial court, the charges against the person are dismissed, or the statute of limitations period for the prosecution of the

1 offense has expired, the department shall pay the proceeds of the  
2 sale to the person from whom ~~[paid to the owner of]~~ the aquatic  
3 products were seized.

4 SECTION 2. Section 12.110(d), Parks and Wildlife Code, is  
5 amended to read as follows:

6 (d) The department may sell confiscated live game described  
7 by Subsection (a) to the highest of three bidders. At the time of a  
8 sale under this subsection, the department shall provide the buyer  
9 a receipt for all game sold to the buyer. The department shall  
10 deposit the proceeds of the sale in the state treasury to the credit  
11 of the appropriate suspense fund ~~[account 900]~~ pending the outcome  
12 of any action against the person charged with an unlawful action  
13 described by Subsection (a). If that person is found guilty, pleads  
14 guilty or nolo contendere, ~~[or]~~ is placed on deferred adjudication,  
15 or fails to appear in accordance with a notice described by Section  
16 12.106 or another law requiring that, as a condition of release, the  
17 defendant subsequently appear before a court to answer for the  
18 offense, the department shall transfer ~~[deposit]~~ the proceeds of  
19 the sale to the credit of ~~[into]~~ the game, fish, and water safety  
20 account. If the person is acquitted by the trial court, the charges  
21 against the person are dismissed, or the statute of limitations  
22 period for the prosecution of the offense has expired ~~[found not~~  
23 ~~guilty]~~, the department shall pay the proceeds of the sale to the  
24 person from whom the game was seized.

25 SECTION 3. Section 12.1101, Parks and Wildlife Code, is  
26 amended to read as follows:

27 Sec. 12.1101. SEIZURE AND DISPOSAL OF CERTAIN ANIMALS'

1 PELTS AND CARCASSES. (a) A game warden or authorized employee of  
2 the department may seize a [~~the pelt of any~~] fur-bearing animal,  
3 pelt, or carcass taken or possessed in violation of a provision of  
4 this code or a lawful regulation of the commission. [~~If an alleged~~  
5 ~~violator is charged with a violation of a provision of this code or~~  
6 ~~of a regulation of the commission in connection with the pelt~~  
7 ~~seized, the warden or employee shall hold the pelt as evidence. On~~  
8 ~~conviction of the alleged violator or on his plea of nolo~~  
9 ~~contendere, the pelts may be sold to the highest bidder after taking~~  
10 ~~the minimum of three written bids by the department. If the alleged~~  
11 ~~violator is not guilty of the offense or if the charge is dismissed~~  
12 ~~the pelts shall be returned to their lawful owner.]~~

13 (b) The department may sell a confiscated fur-bearing  
14 animal, pelt, or carcass to the highest of three bidders. At the  
15 time of a sale under this subsection, the department shall provide  
16 the buyer a receipt for all fur-bearing animals, pelts, or  
17 carcasses sold to the buyer. The department shall deposit the  
18 proceeds of the sale in the state treasury to the credit of the  
19 appropriate suspense fund pending the outcome of any action against  
20 the person charged with an unlawful action described by Subsection  
21 (a). If that person is found guilty, pleads guilty or nolo  
22 contendere, is placed on deferred adjudication, or fails to appear  
23 in accordance with a notice described by Section 12.106 or another  
24 law requiring that, as a condition of release, the defendant  
25 subsequently appear before a court to answer for the offense, the  
26 department shall transfer the proceeds of the sale to the credit of  
27 the game, fish, and water safety account. If the person is

1 acquitted by the trial court, the charges against the person are  
2 dismissed, or the statute of limitations period for the prosecution  
3 of the offense has expired, the department shall pay the proceeds of  
4 the sale to the person from whom the items were seized.

5 (c) A game warden or authorized employee of the department  
6 acting under the authority of this section is immune from liability  
7 and from suit for the seizure of items under this section [~~pelts~~].

8 SECTION 4. Section 65.009(b), Parks and Wildlife Code, is  
9 amended to read as follows:

10 (b) If a person from whom an item described by Subsection  
11 (a) was seized is found guilty, pleads guilty or nolo contendere, is  
12 placed on deferred adjudication, or fails to appear in accordance  
13 with a notice described by Section 12.106 or another law requiring  
14 that, as a condition of release, the defendant subsequently appear  
15 before a court to answer for the offense [~~On conviction of a~~  
16 ~~violation, on a plea of nolo contendere, or on assessment of~~  
17 ~~deferred adjudication in connection with an alligator, alligator~~  
18 ~~hide, alligator egg, or alligator part seized under this section],  
19 the department shall transfer the proceeds of the sale from the  
20 suspense fund to the credit of the game, fish, and water safety  
21 account [~~fund~~]. If the person is acquitted by the trial court, the  
22 charges against the person are dismissed, or the statute of  
23 limitations period for the prosecution of the offense has expired,  
24 the department shall pay the proceeds of the sale to the person from  
25 whom the items were seized.~~

26 SECTION 5. Section 65.009(c), Parks and Wildlife Code, is  
27 repealed.

1           SECTION 6. (a) The changes in law made by this Act apply  
2 only to items seized by the Parks and Wildlife Department on or  
3 after the effective date of this Act. Items seized before the  
4 effective date of this Act are covered by the law in effect on the  
5 date of the seizure, and the former law is continued in effect for  
6 that purpose.

7           (b) The changes in law made by this Act apply to funds under  
8 the control of the Parks and Wildlife Department on and after the  
9 effective date of this Act acquired by the sale of seized items  
10 under Sections 12.109, 12.110, 12.1101, and 65.009, Parks and  
11 Wildlife Code, regardless of whether those items were seized  
12 before, on, or after the effective date of this Act.

13           SECTION 7. This Act takes effect September 1, 2013.

# ADOPTED

MAY 15 2013

*Atay Spaw*  
Secretary of the Senate

By: *Daull*

H.B. No. 1818

Substitute the following for H.B. No. 1818:

By: *King Estes*

C.S. H.B. No. 1818

## A BILL TO BE ENTITLED

### AN ACT

1  
2 relating to the disposition of confiscated game, animal parts, and  
3 animal products.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 12.109(b) and (d), Parks and Wildlife  
6 Code, are amended to read as follows:

7 (b) The confiscated aquatic products shall be sold to the  
8 highest of three bidders. The proceeds of the sale shall be  
9 deposited in the state treasury to the credit of the appropriate  
10 suspense fund [~~account No. 900~~] pending the outcome of the action  
11 taken against the person charged with illegal possession. The  
12 officer shall give to the person a receipt for all aquatic products  
13 seized upon the sale of the aquatic products. If bids cannot be  
14 obtained, the department, if practicable, shall donate the aquatic  
15 products to a charitable institution, hospital, or other person.  
16 To the extent practicable, Subtitle A, Title 6, Health and Safety  
17 Code, applies to an aquatic product sold under this subsection that  
18 is intended for sale and use as human food.

19 (d) If [~~Unless~~] the person is found guilty, pleads guilty or  
20 nolo contendere, [~~or~~] is placed on deferred adjudication, or fails  
21 to appear in accordance with a notice described by Section 12.106 or  
22 another law requiring that, as a condition of release, the  
23 defendant subsequently appear before a court to answer for the  
24 offense, all the proceeds shall be transferred to the credit of the

1 game, fish, and water safety account. If the person is acquitted by  
2 the trial court, the charges against the person are dismissed, or  
3 the statute of limitations period for the prosecution of the  
4 offense has expired, the department shall pay the proceeds of the  
5 sale to the person from whom [~~paid to the owner of~~] the aquatic  
6 products were seized.

7 SECTION 2. Section 12.110(d), Parks and Wildlife Code, is  
8 amended to read as follows:

9 (d) The department may sell confiscated live game described  
10 by Subsection (a) to the highest of three bidders. At the time of a  
11 sale under this subsection, the department shall provide the buyer  
12 a receipt for all game sold to the buyer. The department shall  
13 deposit the proceeds of the sale in the state treasury to the credit  
14 of the appropriate suspense fund [~~account 900~~] pending the outcome  
15 of any action against the person charged with an unlawful action  
16 described by Subsection (a). If that person is found guilty, pleads  
17 guilty or nolo contendere, [~~or~~] is placed on deferred adjudication,  
18 or fails to appear in accordance with a notice described by Section  
19 12.106 or another law requiring that, as a condition of release, the  
20 defendant subsequently appear before a court to answer for the  
21 offense, the department shall transfer [~~deposit~~] the proceeds of  
22 the sale to the credit of [~~into~~] the game, fish, and water safety  
23 account. If the person is acquitted by the trial court, the charges  
24 against the person are dismissed, or the statute of limitations  
25 period for the prosecution of the offense has expired [~~found not~~  
26 ~~guilty~~], the department shall pay the proceeds of the sale to the  
27 person from whom the game was seized.

1 SECTION 3. Section 12.1101, Parks and Wildlife Code, is  
2 amended to read as follows:

3 Sec. 12.1101. SEIZURE AND DISPOSAL OF CERTAIN ANIMALS'  
4 PELTS AND CARCASSES. (a) A game warden or authorized employee of  
5 the department may seize a [the pelt of any] fur-bearing animal,  
6 pelt, or carcass taken or possessed in violation of a provision of  
7 this code or a lawful regulation of the commission. [~~If an alleged~~  
8 ~~violation is charged with a violation of a provision of this code or~~  
9 ~~of a regulation of the commission in connection with the pelt~~  
10 ~~seized, the warden or employee shall hold the pelt as evidence. On~~  
11 ~~conviction of the alleged violator or on his plea of nolo~~  
12 ~~contendere, the pelts may be sold to the highest bidder after taking~~  
13 ~~the minimum of three written bids by the department. If the alleged~~  
14 ~~violation is not guilty of the offense or if the charge is dismissed~~  
15 ~~the pelts shall be returned to their lawful owner.]~~

16 (b) The department may sell a confiscated fur-bearing  
17 animal, pelt, or carcass to the highest of three bidders. At the  
18 time of a sale under this subsection, the department shall provide  
19 the buyer a receipt for all fur-bearing animals, pelts, or  
20 carcasses sold to the buyer. The department shall deposit the  
21 proceeds of the sale in the state treasury to the credit of the  
22 appropriate suspense fund pending the outcome of any action against  
23 the person charged with an unlawful action described by Subsection  
24 (a). If that person is found guilty, pleads guilty or nolo  
25 contendere, is placed on deferred adjudication, or fails to appear  
26 in accordance with a notice described by Section 12.106 or another  
27 law requiring that, as a condition of release, the defendant

1 subsequently appear before a court to answer for the offense, the  
2 department shall transfer the proceeds of the sale to the credit of  
3 the game, fish, and water safety account. If the person is  
4 acquitted by the trial court, the charges against the person are  
5 dismissed, or the statute of limitations period for the prosecution  
6 of the offense has expired, the department shall pay the proceeds of  
7 the sale to the person from whom the items were seized.

8 (c) A game warden or authorized employee of the department  
9 acting under the authority of this section is immune from liability  
10 and from suit for the seizure of items under this section [~~pelts~~].

11 (d) To the extent practicable, Subtitle A, Title 6, Health  
12 and Safety Code, applies to an animal or animal part sold under this  
13 section that is intended for sale and use as human food.

14 SECTION 4. Section 65.009, Parks and Wildlife Code, is  
15 amended by amending Subsection (b) and adding Subsection (e) to  
16 read as follows:

17 (b) If a person from whom an item described by Subsection  
18 (a) was seized is found guilty, pleads guilty or nolo contendere, is  
19 placed on deferred adjudication, or fails to appear in accordance  
20 with a notice described by Section 12.106 or another law requiring  
21 that, as a condition of release, the defendant subsequently appear  
22 before a court to answer for the offense [~~On conviction of a~~  
23 ~~violation, on a plea of nolo contendere, or on assessment of~~  
24 ~~deferred adjudication in connection with an alligator, alligator~~  
25 ~~hide, alligator egg, or alligator part seized under this section)],  
26 the department shall transfer the proceeds of the sale from the  
27 suspense fund to the credit of the game, fish, and water safety~~

1 account [~~fund~~]. If the person is acquitted by the trial court, the  
2 charges against the person are dismissed, or the statute of  
3 limitations period for the prosecution of the offense has expired,  
4 the department shall pay the proceeds of the sale to the person from  
5 whom the items were seized.

6 (e) To the extent practicable, Subtitle A, Title 6, Health  
7 and Safety Code, applies to an animal or animal part sold under this  
8 section that is intended for sale and use as human food.

9 SECTION 5. Section 65.009(c), Parks and Wildlife Code, is  
10 repealed.

11 SECTION 6. (a) The changes in law made by this Act apply  
12 only to items seized by the Parks and Wildlife Department on or  
13 after the effective date of this Act. Items seized before the  
14 effective date of this Act are covered by the law in effect on the  
15 date of the seizure, and the former law is continued in effect for  
16 that purpose.

17 (b) The changes in law made by this Act apply to funds under  
18 the control of the Parks and Wildlife Department on and after the  
19 effective date of this Act acquired by the sale of seized items  
20 under Sections 12.109, 12.110, 12.1101, and 65.009, Parks and  
21 Wildlife Code, regardless of whether those items were seized  
22 before, on, or after the effective date of this Act.

23 SECTION 7. This Act takes effect September 1, 2013.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 15, 2013**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1818** by Kuempel (Relating to the disposition of confiscated game, animal parts, and animal products.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend portions of the Parks and Wildlife Code relating to the disposition of confiscated aquatic products, confiscated game, animal pelts and carcasses, and alligator parts. The bill would provide that if the alleged violator fails to appear in court to answer for the offense, the proceeds from a suspense account will be transferred to the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9. The bill would apply certain Health and Safety Code provisions to any confiscated aquatic product, animal, or animal part subsequently sold as use as human food. The bill could result in a minimal positive fiscal implication to the Game, Fish and Water Safety Account, but such proceeds are not anticipated to be significant.

The bill would take effect September 1, 2013.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 802 Parks and Wildlife Department

**LBB Staff:** UP, SD, TB, SZ, KJo

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 2, 2013**

**TO:** Honorable Craig Estes, Chair, Senate Committee on Agriculture, Rural Affairs & Homeland Security

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1818** by Kuempel (Relating to the disposition of confiscated game, animal parts, and animal products.), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend portions of the Parks and Wildlife Code relating to the disposition of confiscated aquatic products, confiscated game, animal pelts and carcasses, and alligator parts. The bill would provide that if the alleged violator fails to appear in court to answer for the offense, the proceeds from a suspense account will be transferred to the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9. The bill would apply certain Health and Safety Code provisions to any confiscated aquatic product, animal, or animal part subsequently sold as use as human food. The bill could result in a minimal positive fiscal implication to the Game, Fish and Water Safety Account, but such proceeds are not anticipated to be significant.

The bill would take effect September 1, 2013.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 802 Parks and Wildlife Department

**LBB Staff:** UP, TB, SZ, KJo

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 26, 2013**

**TO:** Honorable Craig Estes, Chair, Senate Committee on Agriculture, Rural Affairs & Homeland Security

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1818** by Kuempel (Relating to the disposition of confiscated game, animal parts, and animal products.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend portions of the Parks and Wildlife Code relating to the disposition of confiscated aquatic products, confiscated game, animal pelts and carcasses, and alligator parts. The bill would provide that if the alleged violator fails to appear in court to answer for the offense, the proceeds from a suspense account will be transferred to the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9. The bill could result in a minimal positive fiscal implication to the Game, Fish and Water Safety Account, but such proceeds are not anticipated to be significant.

The bill would take effect September 1, 2013.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 802 Parks and Wildlife Department

**LBB Staff:** UP, SZ, KJo, TB

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**March 26, 2013**

**TO:** Honorable Ryan Guillen, Chair, House Committee on Culture, Recreation & Tourism

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1818** by Kuempel (Relating to the disposition of confiscated game, animal parts, and animal products.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend portions of the Parks and Wildlife Code relating to the disposition of confiscated aquatic products, confiscated game, animal pelts and carcasses, and alligator parts. The bill would provide that if the alleged violator fails to appear in court to answer for the offense, the proceeds from a suspense account will be transferred to the General Revenue-Dedicated Game, Fish and Water Safety Account No. 9. The bill could result in a minimal positive fiscal implication to the Game, Fish and Water Safety Account, but such proceeds are not anticipated to be significant.

The bill would take effect September 1, 2013.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 802 Parks and Wildlife Department

**LBB Staff:** UP, KJo, TB